

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Darrell De'Marcus Land,)	C/A No. 4:22-cv-1576-JD-KDW
)	
Plaintiff,)	
)	
vs.)	ORDER AND OPINION
)	
Solicitor Mary Ellen Walter and Detective)	
Kenneth Marcus,)	
)	
Defendants.)	
)	

This matter is before the Court with the Report and Recommendation (“Report and Recommendation” or “Report”) of United States Magistrate Judge Kaymani D. West, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.¹ (DE 34.) Plaintiff Darrell De'Marcus Land, (“Plaintiff” or “Land”) proceeding *pro se* and *in forma pauperis*, filed this matter against Defendants Solicitor Mary Ellen Walter (“Walter”) and Detective Kenneth Marcus (“Marcus”) (collectively “Defendants”) surrounding an alleged incident that occurred on October 19, 2019. (DE 1.)

The Report was issued on August 11, 2022, recommending the Amended Complaint be dismissed without prejudice and without issuance and service of process as to defendant Solicitor Walter because Plaintiff’s claims against Walter for actions associated with the prosecution of his criminal charges are barred by prosecutorial immunity. (DE 34.) Plaintiff filed an objection to the Report on September 6, 2022. (DE 47.)

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

However, to be actionable, objections to a report and recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n. 4 (4th Cir. 1984). "The Supreme Court has expressly upheld the validity of such a waiver rule, explaining that 'the filing of objections to a magistrate's report enables the district judge to focus attention on those issues -- factual and legal -- that are at the heart of the parties' dispute.'" Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (2005) (citing Thomas v. Arn, 474 U.S. 140 (1985)). "A general objection to the entirety of the magistrate judge's report is tantamount to a failure to object." Tyler v. Wates, 84 F. App'x 289, 290 (4th Cir. 2003). "Likewise, a mere restatement of the arguments raised in the summary judgment filings does not constitute an 'objection' for the purposes of district court review." Nichols v. Colvin, 100 F. Supp. 3d 487 (E.D. Va. 2015). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the Court finds Plaintiff's objections are non-specific or unrelated to the dispositive and/or at the heart of the use address in the Report and Recommendation. For example, in his "objections," Plaintiff claims the Report failed to consider that he told investigators who really committed the crime and that person confessed, that a detective threatened to kill him at the detention center, and that Solicitor Walter "lied" at his bond hearing. (DE 47.) Plaintiff merely asserts various facts that support why Plaintiff believes he should be granted relief on substantive grounds but are unrelated to whether prosecutorial immunity bars Plaintiff's claims against Solicitor Walter.

Accordingly, after a thorough review of the Report and Recommendation and the record in this case, the Court adopts the Report (DE 34) and incorporates it by reference.

Therefore, it is ORDERED that Plaintiff's Amended Complaint is dismissed without prejudice and without issuance and service or process as to Solicitor Mary Ellen Walter.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Joseph Dawson, III". The signature is written in a cursive style with a large, looped "J" and "D".

Joseph Dawson, III
United States District Judge

Florence, South Carolina
April 10, 2023

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.